

**199—19.14(476) Certification of competitive natural gas providers and aggregators.**

**19.14(1) Definitions.** The following words and terms, when used in these rules, shall have the meanings indicated below:

“*Competitive natural gas provider*” or “*CNGP*” means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa, and it also means an aggregator as defined in Iowa Code section 476.86. CNGP includes an affiliate of an Iowa public utility. CNGP excludes the following:

1. A public utility which is subject to rate regulation under Iowa Code chapter 476.
2. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in Iowa Code section 437A.3(21)“a”(1), in which the municipally owned utility is located.

“*Competitive natural gas services*” means natural gas sold at retail in this state excluding the sale of natural gas by a rate-regulated public utility or a municipally owned utility as provided in the definition of CNGP in 19.14(1).

“*Large volume user*” means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

“*Small volume user*” means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

**19.14(2) General requirement to obtain certificate.** A CNGP shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the board pursuant to Iowa Code section 476.87. An exception to this requirement is a CNGP that has provided service to retail customers before April 25, 2001. A CNGP subject to this exception shall file for a certificate under the provisions of this rule on or before June 1, 2001, to continue providing service pending the approval of the certificate.

**19.14(3) Filing requirements and application process.** Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications must be filed with the executive secretary at Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. An original and ten copies must be filed. An application fee of \$125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant will be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments required by this subrule within 14 days of such change. Any new legal actions or formal complaints as identified in 199 IAC 2.2(18), numbered paragraph “4,” are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

**19.14(4) Deficiencies and board determination.** The board shall act on a certification application within 90 days unless it determines an additional 60 days is necessary. Applications will be considered complete and the 90-day period will commence when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applicants will be notified when their application is complete and the 90-day period commences.

**19.14(5) Conditions of certification.** CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

*a.* Unauthorized charges. A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

*b.* Notification of emergencies. Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

c. Reports to the board. Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). For each utility distribution system, the report shall contain the following information for its Iowa operations:

- (1) The average number of small volume end users served per month.
- (2) The average number of large volume end users served per month.
- (3) The total volume of sales to small volume end users, by month.
- (4) The total volume of sales to large volume end users, by month.
- (5) The revenue collected from small volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.
- (6) The revenue collected from large volume end users for competitive natural gas services, excluding any revenue collected from end users on behalf of utilities.
- (7) The date the applicant began providing service in Iowa.

d. Rescinded IAB 4/28/04, effective 6/2/04.

**19.14(6)** *Additional conditions applicable to CNGPs providing service to small volume end users.* All CNGPs when providing service to small volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.14(5):

a. *Customer deposits.* Compliance with the following provisions shall apply to customers whose usage does not exceed 2500 therms in any month or 10,000 therms in any consecutive 12-month period.

- Customer deposits – subrule 19.4(2)
- Interest on customer deposits – subrule 19.4(3)
- Customer deposit records – subrule 19.4(4)
- Customer's receipt for a deposit – subrule 19.4(5)
- Deposit refund – subrule 19.4(6)
- Unclaimed deposits – subrule 19.4(7)

b. *Bills to end users.* A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer's option.

- (1) The period of time for which the billing is applicable.
- (2) The amount owed for current service, including an itemization of all charges.
- (3) Any past-due amount owed.
- (4) The last date for timely payment.
- (5) The amount of penalty for any late payment.
- (6) The location for or method of remitting payment.
- (7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.
- (8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.
- (9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.
- (10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

c. *Disclosure.* Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information required by this paragraph may be provided electronically, at the customer's option.

d. *Notice of service termination.* Notice must be provided to the end user and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

e. *Transfer of accounts.* CNGPs are prohibited from transferring the account of any end user to another supplier except with the consent of the end user. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP's business in Iowa, provided that the transfer satisfies all of the following conditions:

- (1) The transferee will serve the affected end users through a certified CNGP;
- (2) The transferee will honor the transferor's contracts with the affected end users;
- (3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;
- (4) Any affected end user is given 30 days to change supplier without penalty; and
- (5) The transferor provides notice to the public utility of the effective date of the transfer.

*f. Bond requirement.* The board may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. The adequacy of the bond or demonstration shall be determined by the board and reviewed by the board from time to time. In determining the adequacy of the bond or demonstration, the board shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served, with the objective of ensuring that the board's financial requirements do not create unreasonable barriers to market entry.

*g. Replacement cost for supply failure.* Each individual rate-regulated public utility shall file for the board's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the rate-regulated public utility's system purchased gas adjustment.